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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,976	04/30/2001	Robert Joseph Panek JR.	TCO1-102US	2953

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Joshua L. Cohen  
Ratner & Prestia Berwyn  
One Westlakes, Suite 301  
P.O. Box 980  
Valley Forge, PA 19482-0980

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

LC

**Office Action Summary**

Application No.

09/845,976

Applicant(s)

PANEK, ROBERT JOSEPH

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-33, 37-49 and 53 is/are rejected.
- 7) ☒ Claim(s) 34-36 and 50-52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Marek.

Marek discloses a carrier configured to hold a container having a door mounted for reciprocation between opened and closed positions. The carrier comprising a mobile body (the side walls and bottom of Marek's protective container and the body is mobile insofar as the protective container can be slid along a floor surface) adapted to receive the container and an extension (the cable 58, door 50 and flange 56) coupled to the body for reciprocal movement with respect to the body, said extension being adapted for engagement with the hypothetical door of the hypothetical container because parts of the door 50 could be attached to the hypothetical door of the hypothetical container, and the reciprocal movement of the extension being adapted to reciprocate the hypothetical door of the hypothetical container between opened and closed positions. A lever and foot pedal (70) and springs (60,62) complement the functionality of the extension.

Claims 22, 24-26, 29, 30, 37 and 39-41 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by an "on sale" bar as submitted in the second paragraph of the Information Disclosure Statement (IDS) submitted as paper No. 8.

Applicant sold more than one year prior to the April 30, 2001 filing the SHARPSCART Foot Pedal Cart Order No. 8938FP (see page 16 of the SHARPSCART Brochure).

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Claims 22-27, 29, 32, 33 and 53 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sosan.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marek or Sosan in view of Baker.

Marek and Sosan disclose the invention except for the locking member and barrier. Baker teaches a locking member and barrier (30) which is positioned over the foot pedal to lock the foot pedal so that it can't be depressed. It would have been obvious to add the locking member and barrier to either Marek or Sosan to prevent inadvertent and unauthorized opening of the door of a container within a carrier.

Claims 29-33 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marek in view of Sosan.

Marek discloses the invention except for hood is not pivotably connected. Sosan teaches a pivotably connected hood. It would have been obvious to pivotably connect the hood in order to provide access to the open mouth of the container with the added convenience of keeping the hood attached so that the hood is not inadvertently misplaced.

Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sosan in view of Miles.

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Sosan discloses the invention except for the lock and key. Miles teaches a storage device with a lock and key. It would have been obvious to modify the invention to include a lock and key to prevent unauthorized access.

Claims 37-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marek or Sosan in view of Mosior.

Marek and Sosan disclose the carrier but do not disclose an inner container of the combination. Mosior teaches an container with a sliding lid capable of being inserted into a carrier. It would have been obvious to add the inner container to the carrier in order to complete the combination to provide both the carrier and inner container simultaneously so that both the carrier and inner container can be used without needing to wait for the other component.

Claims 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marek or Sosan in view of Mosior as applied to claim 43 above, and further in view of Baker.

The combination disclose the invention except for the locking member and barrier. Baker teaches a locking member and barrier (30) which is positioned over the foot pedal to lock the foot pedal so that it can't be depressed. It would have been obvious to add the locking member and barrier to the combination to prevent inadvertent and unauthorized opening of the door of a container within a carrier.

Claims 34-36 and 50-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302. This practice

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may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication of earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703) 308-1035.



Stephen Castellano  
Primary Examiner  
Art Unit 3727

November 13, 2002